

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CAMILLE SMITH, JERRY PROVINCE, SAMUEL  
RAMOS, AND JOSE MORALES, suing on behalf  
of themselves and all others similarly situated,

Plaintiffs,

-against-

DAVID PATERSON; BRIAN FISCHER; GLENN  
GOORD; RICHARD DeSIMONE; and JOHN DOES,  
Nos. 1-150 (members of the New York State Department  
of Correctional Services whose names are presently  
unknown to plaintiff),

Defendants.  
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08 Civ. 3313 (SHS)

**ORDER TO SHOW CAUSE  
WITH TEMPORARY  
RESTRAINING ORDER**

Upon reading the annexed Declaration of Jose Morales, dated April 9, 2008, and all the exhibits annexed thereto, the accompanying Memorandum of Law in Support of Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction, dated April 9, 2008, and all pleadings and proceedings relevant to this action, it is hereby:

ORDERED that defendants show cause before this Court in Room 23A, 500 Pearl Street, New York, New York on \_\_\_\_\_, 2008 at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, or as soon as counsel can be heard, why an order should not be issued directing defendants, their officers, directors, principals, agents, servants, employees, successors, assigns, and all those acting in concert or participation with them, to:

(1) release from custody plaintiff Morales and all members of the proposed class of felony offenders whose court imposed sentence did not include a period of post-release

supervision and who are presently incarcerated solely because they are alleged to have violated terms and conditions of an administratively imposed period of post-release supervision;

(2) vacate the administratively imposed period of post-release supervision of plaintiff Morales and members of the proposed class of felony offenders whose court imposed sentence did not include a period of post-release supervision;

(3) enjoin defendants from administratively imposing post-release supervision on anyone in their custody whose court imposed sentence does not include a period of post-release supervision; and

(4) remove all effects of administratively imposed post-release supervision from plaintiff Morales and all members of the proposed class of felony offenders whose court imposed sentence did not include a period of post-release supervision;

ORDERED, that pending the hearing and determination of plaintiff's motion for a preliminary injunction, defendants shall:

(1) release from custody plaintiff Morales;

(2) release from custody members of the proposed class of felony offenders whose court imposed sentence did not include a period of post-release supervision and who are presently incarcerated solely because they are alleged to have violated terms and conditions of an administratively imposed period of post-release supervision; and

(3) cease incarcerating all members of the proposed class of felony offenders whose court imposed sentence did not include a period of post-release supervision and who are presently supervised under the terms and conditions of an administratively imposed period of post-release supervision;

ORDERED that service of this Order and the papers upon which it is based be made on or before the \_\_ day of April 2008, by delivering copies of such papers by hand to Andrew M. Cuomo, Office of the Attorney General, 120 Broadway, New York, New York 10271, that said service be deemed sufficient; and it is further

ORDERED that service of opposition papers, if any, be made on or before the \_\_\_\_ day of April 2008 by delivering copies thereof by hand to the offices of Leventhal & Klein, LLP, 45 Main Street, Suite 230, New York, New York 11201, attorneys for plaintiffs; and it is further

ORDERED that service of reply papers, if any, be made on or before the \_\_\_\_ day of April 2008 by delivering copies thereof by hand to the offices of defendants' counsel.

SO ORDERED:

Hon. Sidney H. Stein, U.S.D.J.